

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
Elimination of Main Studio Rule)	MB Docket No. 17-106
)	
)	

REPLY COMMENTS OF COMMON FREQUENCY

July 15, 2017

Common Frequency, Inc.
PO Box 4301
Davis, California, 95617

Overview

Common Frequency is a 501(c)(3) non-profit corporation founded to promote public participation in broadcasting. We believe that since much of the public does not know the procedures regarding radio station licensing, petitioning, and commenting to the Commission, they cannot fully take advantage of broadcast opportunities. Our interest lies in promoting community, student, public, LPFM and other locally oriented educational broadcasting services.

Introduction

Title III Section 307(b) of the Communications Act requires the FCC to make laws for broadcasters regarding equal broadcast service in all areas. The Notice of Proposed Rulemaking, MB Docket No. 17-106, ("NPRM"), "tentative[ly]" entertains the possibility of removing the local public interest obligation that has been intrinsic to broadcast licensing since the inception of the Federal Communications Commission--the main studio. We believe this proposal has greater implications than the NPRM discusses, as it is tied to decades of precedent regarding the local responsibilities of broadcasters which simply cannot be surrendered because technology now enables it. If anything, in the internet era, where localism is suffering, community diversity is increasing, and local journalism is failing, cancellation of local studio obligations is the exact opposite of the information dissemination demands of our local communities. The FCC should be examining the sociological aspects of communication needs within the digital age to derive regulation rather than crafting rules around the broadcaster's preferred equipment setups. Our Democracy, emergency needs of the community--especially in the light of climate change--and the emergence of unsubstantiated ("fake") news from dark internet places, all command retained local input in association with our respectable broadcast media

outlets. Review of the rules should not be approached haphazardly, but with rigorous analysis, with the widest collection of input from the general public as possible. This reply provides our commentary for how the FCC could address this rulemaking to the furthest extent in the public benefit.

Reply Comments

At the time of filing this comment, an abysmal amount of comments mounting almost 90 was counted in ECFS under Docket 17-106 with roughly 85% coming from station licensees themselves. The broadcasters' central theme is to repeal the main studio rules in light of new technology in order to save money. We believe there are some misconceptions at the crux of the NPRM that need to be addressed if the FCC is to pragmatically tackle the main studio issue..

A. Technology is not a new issue or a limiting factor in terms of eliminating the main studio. The local public service obligation in accord with Federal law has always been the real debate.

Broadcast licensees provide comment in ECFS that remote programming and automation are new concepts of just a few years ago made possible by the internet. Their comments presuppose that the main studio requirement is *from like a real real long time ago, before laser beams, disco, or possibly even Dick Clark*. New technologies enable you to turn on your toaster from your iPhone, have flashing LEDs on your underwear, or even send out a Snapchat message that miraculously disappears after you read it. Who would have through in 1978 that in 2017 you could order a McDonald's hamburger for delivery from your mobile telephone. Yawn.

But what is glossed over is studio automation technology and remote programming capability technology is over 50 years old. The major television networks could feed prime time television programming live from coast to coast starting in 1951 with AT&T long lines third generation TD-2 microwave relay service, followed by the upgraded TD-3 system in 1962. In 1963 WIRX was the first radio station capable of 24-hour automation via synching of Fidelipac cartridges and Ampex reel to reels. All these developments became feasibly employable by the late-1960s, within the grasp of all major broadcasters. By the mid-1970s, satellite audio and television was being utilized side by side with roughly 35,000 TD-2 microwave repeaters and 5,000 TD-3 repeaters moving much of all networked television and radio. By the early 1980's, UK pirate radio station Laser 558--an American commercial venture--even had satellite transceiver communications with their New York headquarters, and news delivery system via computer terminal, all integrated into an autonomous sailing vessel in the North Sea.

The NPRM references these technological innovations as if they were just developed within the last few years, and thus the main studio might have an outdated purpose. However, since the 1960's, the impetus behind the FCC's maintaining the main studio rule was never due of technological hurdles, otherwise we would have done away with the rule years ago. **To restate: the capacity enabling streamlined operations and financial savings have been employable for decades. The public interest requirements, however, have always precluded the Commission from removing the main studio rules.** For that reason, it seems misplaced that the NRPM merely focuses on technology at this point as a reason for abolishing the main studio.

The NPRM states "local access to the main studio was designed to facilitate input from community members as well as the station's participation in community activities. Today, however, widespread availability of electronic communication enables stations to participate in their communities of license, and members of the community to contact broadcast radio and television stations, without the physical presence of a local broadcast studio."¹ As mentioned in the NPRM, historical reasoning for the main study was to enforce a two way street--*broadcasters participating locally, and community members participating with the station.*²

For the first prong of this measure--*broadcast participation with the community*--licensee comments for the most part do not substantially delve into how broadcasters could use new technology to remain integrated into the community. Broadcasters do mention streamlined technology and automation to allow their programming to be delivered to the local transmitter--a technology that has been employed since the 1950's, and feasibly implementable in the 1970's. But a broadcaster's responsibility to provide meaningful "self-expression" (underlined/bolded added for emphasis below) to the community **is not an automatable task**. In 1986, the FCC reasserted the broadcaster's local responsibility in an era when all the technologies for operating a studio from a far distance existed in forms analogous to current-day networked technologies (long distance video/audio, duplex digital communication, etc):

¹ *NPRM Fact Sheet Preface to NPRM*, Para 1.

² *Applications of the Tribune Company, Tampa, Florida, et al.*, 19 FCC 100, 148 (1954). ("The accessibility of the broadcast station's main studio may well determine in large part the extent to which the station (a) can participate and be an integral part of community activities, and (b) can enable members of the public to participate in live programs and present complaints or suggestions to the stations.").

Our [The Commission's] view was that main studio location in the community of license was necessary because it is the location of the studio rather than the transmitter which is of particular significance in connection with transmission service. A station often provides service to 'areas at a considerable distance from its transmitter **but a station cannot serve as a means for local self-expression unless it provides a reasonably accessible studio for the origination of local programs.** It is apparent that Section 307(b) and the Commission's efforts to apply it may be largely frustrated if ... a station .. removes its main studio to a distant point and originates all or substantially all of its programs in a city or town other than that which it was licensed to serve.³

The main studio rule is supposed to ensure *station employee-to-community member relationships* is fostered at the community level, with participation of station personnel that involves interaction with civic leaders, minorities, local business, youth, elderly, etc, to accrue an ongoing awareness issues, local customs and tastes (art, local music artists, participation with public events, fairs, court trials, live music festivals, crime scenes, parades, city council discussions, etc). This interaction leads to diligent coverage of these important issues, people, debates, zeitgeist, etc, affording locals to participate in interviews, performances, call-in programs, etc., via visiting a local studio in-person. Local operations supplanted by technology to derive studio-less local operations unfortunately cannot replace this "self expression"⁴ experience mandated by 47 U.S. Code §307. It would require robots with artificial intelligence representing the station within the community. Without a main studio, all interactions within production would have occur via phone calls, email, or Skype to individuals that reside in the community of license. Low fidelity, low bitrate artifacts, latency, digital break-up are all common within this real-time communications to people hundreds of miles away from the

³ *Amendment of Sections 73.1125 and 73.1130 of the Commission's Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, MM Docket No. 86-406 Released, FCC 86-454, October 30, 1986.

⁴ *Supra*

licensee's production studio. Migrating from having a local studio equipped with full HD video, a trained station camera man and a studio technician using ribbon microphones within a professional sound studio, live remote van on the street, to NOT having a local studio at all--relying on the phone and Skype--is a regression of local media newsgathering. But even outside the technical commitment, relegating "self-expression" to having a broadcast staff in another city simply making phone calls to a community of license hundreds or thousands of miles away to collect information is not the same as being in the community to investigate, meet with stakeholders, and uncover the local beat. To think with the elimination of trained local station talent, journalists, technicians, and engineers and local studios we would be reverting to the quality of analog phone calls and Skype when interviewing for on-air content, with a loose grasp on what it means to be in Louisville, Yuba City, or Morgantown. This is unacceptable. A DJ residing in New York broadcasting content to Omaha likely only knows what temperature it is there. The DJ has to fake everything else by Googling "Omaha news" for on-air small-talk to jive with the community. Is that what the FCC really wants--faked self-expression pumped out to thousands of listeners from a studio thousands of miles away so the broadcaster can save a few dollars over hiring an Omaha DJ, pleasing their shareholders that really don't care about anything else?

Neither commenters or the FCC have proposed how to bridge the "self expression" gap with technology. **Furthermore, how would the FCC could re-codify this public service obligation in specific terms without the requiring a main studio? For the most part, if there is no explicit rule defining the local service obligation contingent to the license grant, the obligation itself becomes optional to the broadcaster and unenforceable to the FCC and the public. How would the**

FCC reconcile that issue? Currently, these "community needs and interests" are only "expose[d]" via "meaningful management and staff presence" (underlined/bolded added for emphasis below), as the FCC touches upon in 1988:

A station must maintain a main studio which has the capability adequately to meet its function, as discussed above, of serving the needs and interests of the residents of the station's community of license. To fulfill this function, a station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence. Maintenance of production and transmission facilities and program transmission capability will allow broadcasters to continue, at their option, and as the marketplace demands, to produce local programs at the studio. **A meaningful management and staff presence will help expose stations to community activities, help them identify community needs and interests and thereby meet their community service requirements.**⁵

For the second prong of this measure, there must be a method for *community members to induce participation with the station* from their end. For this, the FCC recommends "propos[ing] to retain section 73.1125(e) of our rules, which requires "[e]ach AM, FM, TV and Class A TV broadcast station [to] maintain a local telephone number in its community of license or a toll-free number."⁶ Being that the NPRM centers upon integration of new technology, the FCC recommends **a land line telephone number** as the primary communication route between the public and the broadcaster, with questions such as *should the number be on the "website", can the licensee respond to "voicemails"*? So in the internet era, technology developed **in 1876 is the FCC's proposed primary route for public interaction with the station?** The NPRM appears to venture back to 1970 for one paragraph, with the priority to maintain that local number prefix to avoid the phone company from charging members of the public for long

⁵ MM&O Amendment of Sections 73.1125 and 73.1130 of the Commission's Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations, MM Docket No. 86-406, 3 FCC Rcd No. 17, August 17, 1988.

⁶ NPRM, Paragraph 10.

distance calls. As long as the number is local, who cares where the person who picks up the phone is from?

In 2017, people communicate via email, tweets, SMS text, apps, skype, Facebook, and even webpages (still). While we believe the phone is still important, the FCC might develop a public file iPhone/Android app downloadable on all broadcasters web pages that could allow members of the public direct commenting to the station's online public file. Maybe even a two-way messaging app to obtain feedback from the station. An additional "community relations forum" on the station website could facilitate listen/viewer dialog regarding tips from listeners/viewers with the availability of uploading of audio or video for broadcast use as a new interactive tool. Development like these might best utilize 2017 technology.

B. Licensee comments provide the impression that having a main studio is largely to provide a file cabinet location for a public inspection file. The maligned public file, although essential, has been reduced to merely a broadcaster's deep secret. Its limited public utility is viewed as a scapegoat for main studio rule abolishment.

We believe the "public file location" is a distraction issue within the main studio debate. Two key arguments insinuated by licensees are:

(a) "The public does not seem to care about the public file because nobody ever inspects it." The main question is, however, how is a local member of the public is supposed to be privy to the notion that a station has something called a "public inspection file" unless they have read the FCC rules. Neither the FCC or broadcasters advertise the fact that such a file exists--it is kept a secret. Broadcasters thus insinuate the public obviously doesn't care about the file because nobody asks about it. This is

like operating a furniture store with no store signage or advertising, and then coming to the conclusion that people universally don't care about buying furniture anymore.

(b) "Our public file is (or can be) on-line. Since we don't need a file cabinet within the community of license, there is no use for a local studio". It is widely known in

the broadcast industry and the FCC that very few people know about the public file.

Thus, the FCC has not required a staffed brick and mortar studio for the last several decades for the principle purpose of intercepting the occasional public file inspector every few months. The argument to abandon the main studio rule due to this excuse is seen as another distraction from the real issue--the local public service requirement.

C. The requirement for the main studio is guided by Title III Section 307(b) of the Communications Act.

Ultimately what guides the FCC regulation of the main studio is set forth within 47

U.S. Code § 307(b):

(b) Allocation of facilities

In considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

The underlying mandate of 307(b) would seem difficult to change from a regulatory perspective. There are decades of legal precedent within its interpretation that the Commission has used to justify the main studio rule as a cornerstone in broadcast public service obligation. Just reading in plain words "equitable distribution of radio service" among "States and communities" must be ensured by law, the stipulation is clear. This poses a challenge to eliminating the main studio rule because any

rulemaking needs to uphold *307(b) transmission service*. Transmission service “is the opportunity which a radio station provides for the development and expression of local interests, ideas, and talents and for the production of radio programs of special interest to a particular community.”⁷

It is unclear how *fair, efficient, and equitable distribution* of transmission service could be uprooted from the community of license and moved to, say, the broadcaster’s headquarters in New York City. The license obligation is anchored to the community of service, like reception service. The local main studio requirement is the only instrument the FCC and the public has to enforce transmission service under law. By definition, the conglomeration of such service to areas outside the communities of license would clash with the basis of the licensing regime. This interpretation was visited previously by the FCC:

The main studio rules... , are intended to make broadcast stations readily accessible to the people .and communities which they are primarily licensed to serve, and they constitute one of the essentialways we have for insuring that stations realistically meet their obligations to serve their communities of license as outlets for local self-expression.⁸

The Commission’s interpretation concerning the main studio above still holds true to today. Common Frequency does not see any changes within local communities that would require the FCC to alter the requirement, or any new technology that could permit dismantling equitable service.

⁷ *Rulemaking Concerning Main Studios*, 15 FR 8993 (1950).

⁸ *TV Main Studio Rules*, 27 FCC 2d 851 (1971).

D. Elimination of the main studio rule is not in the public interest. We do not see any apparent rationale for doing so.

(a) Licensees purport that removal of the main studio would free up money to enhance programming and operations.

The FCC inquires if new technology would effectively replace the main studio, offering efficiencies to enhance quality of operation. Broadcast licensees insinuate this new technology would induce savings, allowing for greater investment into quality of programming. There are two concerns with this theory:

Historical Data, Proof? We are not aware of any studies put forth by broadcasters or the FCC that demonstrate greater efficiency, licensee savings, and/or consolidation of services ever providing increased localism, journalistic effort within the community, broadcast jobs, diversity, or programming quality. We believe the Commission should provide data to exemplify how deregulation of broadcast services in the past (e.g., deregulation of radio/television in the early 1980's, repeal of the Financial Interests and Syndication Rules, repeal of program origination rules, the Telecommunications Act of 1996, etc) has precipitated any of these positive effects. Deregulatory assumptions in the past rulemakings merely assumed increased quality after implementing when it had continually delivered the direct opposite in practice.

Contradiction in practice? The primary hypothesis licensees are providing in comment is that the money saved from the main studio could be used to enhance other aspects of the local broadcast. However, this is a contradiction in practice. Broadcasters are stating that by gutting the local talent (who creates local programming, who lives in the community, has a grasp on local issue, and resonates with the community), the station journalist who is deft in covering local issues, the salesperson who has key business

relationships, the senior engineer who keeps the physical plant in top order, and the professional origination and remote equipment, **station owners would then have the money to invest in to improve local broadcasting. How? By re-hiring the all the people fired that were ensuring quality content, presentation, and community interaction? Giving them back the professional tools within the studio to make content?**

The main studio regulation defines the *minimum bar* to produce quality local broadcasting and ensure local self expression. That is why it exists. Station owners are under the impression that fast internet and high tech software enable the cost savings to replace local talent, producers, engineers, remote operation, etc. Magical technological dust does not increase quality over hard working local broadcast professionals. Perhaps for many broadcast companies, profit and their shareholders have become the primary stakeholder, not the community. FCC regulation in some cases is the only reason a media conglomerate begrudgingly retains local staff and infrastructure within the community. This FCC-stipulated staff is thus maximized in their duties, incidentally adding value to the venture in forms of public engagement, ensuring impeccable engineering and reliability. If these local implements currently bring in, say, 10% more profit than not having them, but by cutting them may attain 15% more profit, the shareholders, with no personal connection to the community, will most likely choose the profit vs. the added public service of a local studio. Thus, we have regulation to protect the local public interest from the pursuit of profit, to ensure marginal gains are not chosen over public service.

(b) There is no market failure to justify simply bolstering profit.

We do not see a cogent reason for removing the main studio requirement merely because technology permits last-mile savings and consolidation. Ending main studio requirements would only increase marginal profitability by cannibalizing the last remaining public interest stipulations. Radio is already profitable as it is--it does not need FCC intervention for increased profitability.⁹ Compare broadcast radio to Pandora, the newest audio technology and largest streaming service, which hasn't made a profit after 17 years.¹⁰ Broadcasters such as IHeartMedia and Cumulus continue to be profitable¹¹--it is the debt loads from activities such as rapid expansion and consolidation that have put stress on these entities to search for profit maximization. The FCC should not have to eradicate public service rules to assist in debt neutralization for them.

(c) FM licensee Educational Media Foundation provides a current example of a large broadcaster that is not required to have local main studios. Their operations present a broadcasting dystopia that would be reality for licensees if the main studio rules are repealed.

Educational Media Foundation ("EMF") is licensee of over 383 FM full power licenses and 390 translators across the United States.¹² Their nonprofit status allows them to circumvent the main studio obligation by the use of a NCE main studio waiver, for which they waive over 99% of their facilities from having main studios.

⁹ <https://adexchanger.com/digital-audio-radio/digital-hasnt-killed-radio-star/> "...no. 1 reach medium in the US, radio reaches 93% of the population, according to Nielsen...radio still holds the deepest penetration of the audio market, Edison reported." January 6, 2017.

¹⁰ <https://www.fool.com/investing/2017/02/28/will-pandora-media-ever-turn-a-profit.aspx>

¹¹ <http://www.radioworld.com/business-and-law/0009/iheartmedia-declares-q4-profitable/339213>, <http://www.radioworld.com/business-and-law/0009/cumulus-media-reports-q4-revenue-dip/339342>

¹² Source, FCC CDBS query.

Their nonprofit 990 IRS filing (2015) reveals they have considerable income--\$64 million in net revenue. Their total number of employees is 430.

We compare the ratio of employees to number of stations owned. EMF effectively has 1.12 employees per station (not counting translators) or 0.56 including translators. Compare this ratio to other broadcasters that are required to have main studios: Tribune Media (14,000 employees, 42 stations = 333.3 emp/station), Salem (1590 employees, 117 stations = 13.6 emp/station), Beasley (748 employees/68 stations = 11 emp/station), Urban One (1011 employees, 55 stations = 18.4 emp/station). Comparing these ratios, with the main studio rule revoked, we would expect further massive layoffs within the broadcast industry, with unfortunate consequences to jobs within local economies, trickling over to loss of sales from equipment manufacturers to technicians.

Turning to EMF's programming: **Two content streams from two main broadcast studios beamed via satellite/internet to 773 facilities across the country.** There are no local market journalism/newsgathering for independent content for any local markets, no local specific community affairs, or no air time given to local businesses for underwriting. All the content broadcast by EMF (for example) in Los Angeles is exactly the same in New York City which is exactly the same in Anchorage--all produced in Rocklin, California. Hypothetically, the station cannot even interrupt programming, say, in New Orleans to broadcast continuous information about a hurricane mulling through the city because it would have to broadcast that same

programming to its other affiliates in the other 49 states via satellite because they only have two FCC main studios. There are no local studios in any markets with locals employed to produce content. It is a music service devoid of any local community affairs programming.

Although a simplistic assessment, radio consolidation of ownership is resulting in a few mega-licensees like EMF to retain ownership of hundreds of stations. Just in the last few years, Infinity folded into CBS, then CBS folded into Entercom. Entercom bought Lincoln Financial Media. Citadel and Susquehanna folded into Cumulus. Taking away the main studio requirement, not only would ownership be concentrated, but all programming and operation for 80% of the nation's stations could be yanked out of every local community and consolidated into a dozen corporate headquarters. **Under the main studio repeal, IHeartRadio could legally have a massive server room at its headquarters exporting 800 programming streams via internet from coast to coast to 800 remote transmitters.**

It bears repeating, and analysis: **The "EMF" regime represents the plausible future for mass broadcasting without a FCC main studio requirement .** Does the FCC believe that a centralized operation like this adequately represents fair transmission service? The main studio rule is the only FCC regulation preventing this broadcast dystopia from occurring. Therefore, it is in the public interest that the rule not be eliminated.

(d) Elimination of the main studio will hurt smaller broadcasters and rural market programming.

With the proposed changes:

Small broadcasters: Single/few-station licensees would not be able to compete against the consolidated operations of multi-station broadcasters in the market who could offer lower advertising rates due to economy of scale operations. The effect would continue to stoke sell-off and consolidation in the short term.

Rural market programming: Rural markets with consolidated programming facilities hundreds of miles away from the community of license could simply simulcast the closest urban market programming without any local employees to produce material specifically for the smaller markets.

(e) Broadcast entities would not be able to respond effectively to local emergencies and regional catastrophes.

Under the main studio elimination proposal, local market studios could be sold-off and personnel could be eliminated, with broadcasters unequipped to cover emergency events--local catastrophes and regional disasters--where the public tunes into local media for guidance on survival. Case in point, the oft-cited incident in January 2002 when a train carrying derailed anhydrous ammonia ruptured from derailment injuring about a hundred people. The local EAS system was never activated, and the majority of the local stations, all operated by Clear Channel, was unable to report and dispense information on-air due to automation and minimal staffing. We implore the FCC to note that for all the tornados, floods, fires, earthquakes, and other emergencies, the

elimination of local personnel able to collect information on the ground, interview locals, provide investigation, and access the local studio could be eliminated.

Dependence upon internet communication from hundreds of miles away to feed programming to a local station with no local main studio is also *simply dangerous*. A simple internet outage from a local disaster would either render the station off-the-air, or mean broadcasting backup automation, say via a USB stick from a transmitter shack, for days. The community could be put in peril without no television or radio to respond to the event--a total regression of public broadcast service. Or having station personnel at the media conglomerate's headquarters in DC ready to fly six hours to Los Angeles the next day to use temporary rented office space in an earthquake scenario simply does not suffice, nor realistic. **In such an incident, the public would have loss of internet and cellular communication, depending exclusively on a broadcast service that would not be available because the licensee sold-off its infrastructure and laid off its staff. We believe that local licensees, as part of their responsibility to utilize the public airwaves for profit, must demonstrate a staffed, local base of operations to respond to these community matters.**

(f) Elimination of public interaction and broadcaster-community relationship.

Without a local studio and local staff:

- There is no staff or talent or infrastructure for airtime for interviewing local musicians, artists, people of interest, local affairs, etc, affording community members to visit a local studio for local discourse.

- A local forum for covering candidate debates would be difficult if not possible

- Remote operations in the field could be discontinued without local broadcast infrastructure and talent. Station employees MC'ing community events, with broadcast employees meeting members of the public could be eliminated altogether.

- Local businesspersons and nonprofits would not be able to foster relationships with station management to sponsor charitable events or collaborate in local business propositions without a local offices.

- Local stations would not be able to incubate new talent via late night air shifts or provide broadcast internships, necessary for the future of the industry. Apprenticeships via broadcast outlets are the only outlets for local members of the public to gain experience in the broadcast industry to develop the managers and talent of the future. The industry would be stifling itself regarding competent future employees with the main studio elimination. As it is, most broadcast engineers are approaching retirement age.

E. The NPRM is incomplete in analysis, research, and input to prescribe an informed decision at this point.

The NPRM uses the word "tentatively" in addressing the proposal within the "FCC Fact Sheet" prefacing MB Docket No. 17-106. We agree. We see there being a lack of analysis regarding fair distribution of service requirements, historical legal precedent, and how the local public interest could possibly, or even reasonably, be enforced without a main studio rule.

There also the misdirection regarding how internet technology could replace the *station-community relationship* under law. The main studio rule is pillar of maintaining this relationship in light of repealed local content origination rules and local ownership. This was never an technological rule--it is a human interaction rule. Station employees act as stewards of the licensee's local content origination infrastructure. The main studio rule enforces the implicit contractual commitment with the licensee under the FCC's public interest licensing regime when using the local public airwaves.

We have key questions for the Commission regarding their proposal:

- We would appreciate if the FCC could explain in further detail exactly why the main studio rule needs replaced. Is it merely for cost savings and more broadcaster profit? Why is this sought at this critical juncture of importance for local public service?
- How exactly does technology replace a broadcaster's obligation to provide self expression and human interaction within the community?
- How do you enforce the local public service obligation without a main studio? How could a broadcaster fulfill the the terms of transmission service from afar without local presence? How do the terms of 307(b) and the decades of judicial precedent that have asserted a main studio must be utilized to fulfill this statute?

- 90 ECFS comments are chiefly from broadcasters via their lawyers and almost no comments from broadcast workers, members of the public, advertisers, community media organizations, local governments, nonprofits, etc. We believe this does not constitute a diverse enough opinion from all stakeholders for the FCC to reach opinion on this issue. Deregulation of Radio/TV in the earlier 1980's was met with 20,000 comments--and that was before the internet. We urge the Commission to (A) solicit comments via greater publicizing the NPRM within a longer comment window, and (B) provide for a select number of community public hearings as the Commission has had in the past on major issues in key parts of the country--NE, South, Midwest, NW, West, SW.

- How would a licensee meet its *station-community participation* requirement without a local staff or studio. Or in cases of local catastrophe, if a local broadcast facility is cut from long distance internet communication feed. Within an emergency, a local studio is needed for program origination, and skilled broadcasters are needed to be on-air within minutes. How would broadcasters respond to internet outages? Especially in cases of emergency?

- If the main studio rule is eliminated, how does a member of the public petition that a station is not meeting their "transmission service" obligation, their station-community community participation requirement, or community "self-expression" duties? Prior to deregulation, the FCC had quantifiable programming and community service standards stipulated by law that licensees needed to adhere to in return for a broadcaster's use of the public's airwaves: At that time, a member of the public could check the public file

and have would have a metric provided by the Commission to gauge if the broadcaster was not operating in the public interest. Post deregulation, the FCC has rendered the utility of the public file and public interest obligation as almost meaningless. The public file is kept alive as an illusion of public check-and-balance since there are no FCC rules that enforce public service deficit. The following is rational from the FCC regarding post-deregulatory check-and-balance for broadcasters:

It is our expectation that the added flexibility that broadcasters will have to respond to their audiences will indeed produce such results. There remains the possibility that, at least in some isolated cases, this might not happen. Fortunately, there are built-in mechanisms to allow us to detect such an occurrence. Part of the public interest obligation of any licensee is to address issues of importance to the community as a whole or, in larger markets with many stations, to the station's listenership. If a station is not addressing issues, citizens will be able to file complaints or petitions to deny. We continue to encourage citizens to meet with their local broadcasters to discuss their concerns, but if they do not receive satisfaction, they should take the complaint or petition to deny routes. These long standing channels will allow the Commission to continue to monitor the performance of licensees, and indeed will better indicate the responsiveness of licensees than do fixed guidelines.¹³

The above is the flawed nature of deregulation. How is the public supposed to file complaints or petitions to deny when the FCC has no local public interest minimum standard codified? **So the question is, if the FCC removes the main studio requirement, what rule, tool, or metric remains so that a member of the public can still demonstrate to the FCC that a station is not fulfilling its local licensee obligations?** The current answer under the Commission's proposal is--there isn't any way. **But in alternate terms, what specifically would constitute a licensee *not fulfilling its local public service obligations* under the proposed eliminated studio rule?** The main studio rule is one of the last tools a member of the public has to work for programming in the public interest.

¹³ *In the Matter of Deregulation of Radio*, Para 109, 84 FCC 2d 968 (1981).

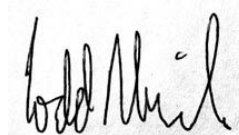
- What rules or measures would the FCC use to prevent commercial broadcast conglomerates from completely abandoning all their local public interest obligations for all their stations (in a way the EMF is already currently doing with their 800 facilities broadcasting coast to coast with two content streams)?
- Can the FCC provide data that shows how deregulation of broadcast services in the has increased localism, journalistic effort within the community, broadcast jobs, diversity, or programming quality? Deregulatory assumptions in the past rulemakings merely assumed copious benefit for broadcast listeners, viewers, and workers, while continually delivering the direct opposite in practice.

F. Conclusion

It is important to remember that the main studio represents a rule to enforce the two-way street of broadcaster-community participation, and community member-station participation, essential to the station's requirement to uphold local self expression. If the local studio rule is revoked, the FCC must state how these obligations are to be explicitly codified or they cannot be enforced. Under deregulation, if there are no rules that clearly define the minimum bar of operating in the local public interest, the public's scrutiny of a station's public inspection file is an exercise in futility. Furthermore, technology at this point cannot replace the broadcaster-community participation required under 307(b), so the main studio appears the only viable option for regulating this broadcast requirement. Because of this, if the Commission serious regarding amending the main studio rules, we believe rigorous protocols need to be undertaken to derive a rulemaking that is fair

for the public. The rulemaking should ensure the local public service obligations of broadcasters are explicitly detailed within the new rules that prevent the "EMF" model of operation from occurring.

Submitted by,

A handwritten signature in black ink, appearing to read "Todd Urick", is centered below the "Submitted by," text. The signature is written in a cursive, flowing style.

Todd Urick
for Common Frequency, Inc.